

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD  
MINUTES OF MEETING  
AUGUST 16, 2006  
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on August 16, 2006, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

**Members Present:**

Sheriff Gary Butler, Chairman  
Deputy Director Gary Phelps, representing Director Dora Schriro  
Mr. Joseph Duarte  
Chief Patricia Huntsman  
Chief Jerry Sheridan  
Director Roger Vanderpool  
Chief Jack Harris  
Mr. Tim Black, representing Attorney General Terry Goddard  
Sgt. Tamatha Villar  
Ms. Wendy Larsen

**Members Absent:**

Sheriff Clarence Dupnik  
Detective Robert Thompson  
Dr. Michael Polakowski

**Staff in Attendance:**

Bob Forry  
Ted Brandon  
Steve Jacobs  
Curt Milam  
Gary Maschner  
Marie Dryer  
Maria Valtierra  
Lyle Mann  
Sandy Sierra  
Tom Hammarstrom  
Rick Watling  
Toye Nash

Assistant Attorney General  
Diana Stabler

Guest Roster:

Dale Norris  
Denise Koenneker  
Ron Clark  
Robert Eckert  
Robert Nordman

**A. CALL TO ORDER**

Chairman Butler called the meeting to order at 10:02 a.m.

**B. LAW AND LEGAL INSTRUCTOR FOR ALEA**

Director Hammarstrom addressed the Board regarding a new instructor position at ALEA. During the ALEA Management Team meeting held on July 5, 2006, the Management Team voted to establish a Law and Legal Instructor position for the academy, with the costs being shared between the Phoenix Police Department, DPS, and POST.

The position will be filled by an attorney who has law enforcement background and experience. The POST share of the position costs are estimated to be between \$40,000.00 and \$50,000.00 annually. There are sufficient funds available within the Peace Officer Training Fund to support this request.

Director Vanderpool and Chief Harris were both in agreement with this request.

Mr. Duarte moved to approve the creation of a law and legal instructor position for the Arizona Law Enforcement Academy and fund one third of the costs associated with this position, seconded by Chief Sheridan, motion carried unanimously.

**C. BOARD POSITION STATEMENT ON THE TOPIC OF PEACE OFFICER HONESTY**

During the last several months of 2001, the Board articulated a position statement on the topic of peace officer dishonesty. The purpose of the statement was to clarify this very difficult subject for the law enforcement community, staff, and Board members.

Dale Norris, Executive Director of the Arizona Police Association addressed the Board. He stated he does not want the Board to change its

emphasis on honesty. He does believe that it is time to look at what has happened in the last five years and whether or not this position statement is accomplishing what it was intended to accomplish. Employing agencies have an easy job; all they only have to do is determine if misconduct occurred. If it did occur, they are free to give whatever discipline they want. The POST Board has a more difficult job – it needs to determine if the person has the qualifications and character to continue as a peace officer in the state of AZ. He believes it is time to reexamine the position statement because it isn't as simple as a single dishonest act equates to a dishonest character. The consequences of what the POST Board does has such weighty consequences, it ends chosen professions for all time when it decertifies someone.

Chief Sheridan stated he feels it is appropriate to readdress this issue. He does not feel that any changes need to be made and would like to continue on with this position statement.

Chief Harris stated he agrees with the position statement. He feels it has a tremendous affect on people and it should be reviewed. Things change over a period of five years. He suggested a subcommittee be formed to address this and review it and see if any changes should be made.

Director Vanderpool agrees with Chief Harris. He strongly suggests that the position statement be given to every peace officer in Arizona from day one. This should help to ensure peace officers understand where this Board and the law enforcement community stand regarding trust, obligation and integrity.

After a short discussion, it was determined that each Board member will review the position statement and provide any recommendations to the executive director.

#### **D. INFORMATION AND DISCUSSION REGARDING SPECIALTY OFFICER CERTIFICATION**

The executive director gave a report on issues related to Specialty Officer Certification. A number of state agencies are empowered by Arizona Revised Statutes to appoint peace officers. The ARS provisions that provide authority sometimes limit the enforcement authority of the agency in question. POST rules include the category of Specialty Officer, defined as "a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency's statutory powers and duties." POST certification does not provide enforcement authority, ARS does.

In the past, POST staff has interpreted ARS, and designated which agencies are specialty agencies. It will be the policy in the future that those agencies interpret their own statutes and inform POST as to which category is appropriate.

**E. TRAINING AUDIT DEFICIENCIES – SAN CARLOS DEPARTMENT OF RECREATION AND WILDLIFE**

Under Arizona Administrative Code, R13-4-109.01- Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies, "The Board shall restrict certified status if a peace officer fails to satisfy the requirements of R13-4-111. The restriction shall remain in effect until the training or qualification requirement is met and written verification is provided to the Board."

The San Carlos Department of Recreation and Wildlife had an officer deficient in firearms training. This matter was taken care of prior to today's meeting and no action needs to be taken on this matter.

**F. TRAINING AUDIT DEFICIENCIES – NAVAJO DIVISION OF PUBLIC SAFETY**

The Navajo Division of Public Safety has one officer deficient in firearms training. As such, the Board should restrict certification until the deficiency has been taken care of.

Chief Sheridan moved to restrict the peace officer certification of Lemar Martin. Mr. Martin shall not carry or use a firearm on duty. This restriction is to remain in effect until staff receives documentation correcting the deficiency, seconded by Mr. Duarte, motion carried unanimously.

**G. TRAINING AUDIT DEFICIENCIES – WHITE MOUNTAIN RECREATION AND WILDLIFE**

The White Mountain Apache Department of Recreation and Wildlife has one officer deficient in proficiency and firearms training. As such, the Board should restrict certification until the deficiencies have been taken care of.

Chief Sheridan moved to restrict the peace officer certification of D. Kitcheyan. Mr. Kitcheyan shall not engage in enforcement duties, carry a firearm, wear or display a badge, wear a uniform, make arrests, perform patrol functions, or operate a marked police vehicle. This restriction is to remain in effect until staff receives documentation correcting the deficiencies, seconded by Chief Hunstman, motion carried unanimously.

**H. FINAL ACTION CASES:**

Case #1 – Thomas S. Goff. *Chief Harris recused himself from participation and voting on this case.* The Board considered comments from Assistant Attorney General Diana Stabler and Janet Feltz, attorney for Mr. Goff. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision for suspension of peace officer certification for a period of 30 days beginning on March 24, 2005 and ending on April 23, 2005, seconded by Sgt. Villar, motion carried unanimously.

Case #2 – Darrell N. McRae. The Board considered comments from Assistant A. G. Diana Stabler. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision for voluntary relinquishment of peace officer certification, seconded by Director Vanderpool, motion carried unanimously.

Case #3 – Mark K. Spina. The Board considered comments from Assistant A. G. Diana Stabler and Janet Feltz, attorney for Mr. Spina. Director Vanderpool made a motion to adopt the Consent Agreement, Order and Decision for suspension of peace officer certification for a period of six months beginning on February 25, 2005 and ending on August 25, 2005, seconded by Chief Harris, motion carried unanimously.

Case #4 – Bruce J. Wade. *Chief Harris recused himself from participation and voting on this case.* The Board considered comments from Assistant A. G. Diana Stabler and Janet Feltz, attorney for Mr. Wade. Director Vanderpool made a motion to adopt the Consent Agreement, Order and Decision suspension of peace officer certification for a period of 240 hours, concurrent with the suspension from work he served with the employing department, seconded by Sgt. Villar, motion carried unanimously.

Case #5 – Christine L. Bedonie. The Board considered comments from Assistant A. G. Diana Stabler. Sgt. Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Sheridan, motion carried unanimously.

Case #6 – Matthew W. Brooks Sr. The Board considered comments from Assistant A. G. Diana Stabler, Sgt. Rich Stockton of the Wellton Police Department and Matthew Brooks. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Huntsman, motion carried with a 5-4 vote, Sgt. Villar did not vote on this case.

Case #7 – Eddie J. Nodman. The Board considered comments from Assistant A. G. Diana Stabler. Mr. Duarte made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Director Vanderpool, motion carried unanimously.

Case #8 – David T. Dyer. The Board considered comments from Assistant A.G. Diana Stabler. Chief Harris made a motion to revoke peace officer certification, seconded by Ms. Larsen, motion carried unanimously.

#### I. NEW CHARGING CASES:

Case #1 – Frank L. Barrios. Chief Sheridan made a motion to close the case with **Research Further**, seconded by Sgt. Villar, motion carried unanimously.

Case #2 – Lisa A. Best. Chief Sheridan made a motion to Initiate Proceedings, seconded by Mr. Black. Ms. Stabler explained to the Board what the alleged conduct was and what, if any, rules were violated. Chief Sheridan withdrew his motion. Chief Sheridan made a motion to close the case with *Research Further*, seconded by Mr. Black, motion failed. Chief Harris made a motion to take **No Action w/Agency Discretion**, seconded by Mr. Duarte, motion carried unanimously.

Case #3 – Joseph R. Cava. Director Vanderpool made a motion to **Initiate Proceedings**, seconded by Mr. Duarte, motion carried with two nay votes.

Case #4 – Denise M. Koenneker. Chief Sheridan made a motion to close the case with **No Action w/Agency Discretion**, seconded by Mr. Phelps, motion carried unanimously.

Case #5 – Curt J. Lawrence. Chief Huntsman made a motion to **Initiate Proceedings**, seconded by Sgt. Villar, motion carried unanimously.

Case #6 – Michael M. Lyles. Chief Huntsman made a motion to **Initiate Proceedings**, seconded by Sgt. Villar, motion carried unanimously. Chief Huntsman requested that staff negotiate a settlement agreement on this case.

Case #7 – Robert W. Nye. *Director Vanderpool recused himself from participation and voting on this case.* Sgt. Villar made a motion to close the case with **Research Further**, seconded by Mr. Duarte, motion carried unanimously.

Case #8 – James C. Sallee. Chief Sheridan made a motion to close the case with **No Action**, seconded by Mr. Phelps, motion carried unanimously.

Case #9 – James R. Valdez Jr. Mr. Duarte made a motion to **Initiate Proceedings**, seconded by Sgt. Villar, motion carried unanimously.

Case #10 – John A. Vega. Director Vanderpool made a motion to close the case with **No Action**, seconded by Chief Sheridan, motion carried unanimously.

Case #11 – Kenneth L. Warren. *Director Vanderpool recused himself from participation and voting on this case.* Chief Harris made a motion to **Initiate Proceedings**, seconded by Sgt. Villar, motion carried unanimously.

**J. PETITION BY THE ARIZONA CORPORATION COMMISSION SECURITIES DIVISION FOR A RESTRICTED PEACE OFFICER (SPECIALTY) CERTIFICATION**

The Board voted to go into executive session at 11:55 a.m. to consider confidential documents relating to this matter. Mr. Phelps recused himself from participation and voting on this matter. The Board returned to public session at 12:00 noon.

The Arizona Corporation Commission – Securities Division is requesting a restricted peace officer certification for one of its employees. The employee would not be allowed to carry a weapon on-duty and would not place himself in a situation which would expose him to the risk of a physical confrontation.

Chief Sheridan moved to grant restricted certification to Mr. Robert Eckert. The certification would be restricted from being assigned to any duty likely to result in the need to apply physical force, and further, that the potential for such need is so remote as to be highly unlikely, and is authorized only for the duration of employment at the current agency, seconded by Sgt. Villar, motion carried unanimously.

**K. ADJOURN**

Chairman Butler adjourned the meeting at 12:02 p.m.

Dated: August 21, 2006

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Sandra L. Sierra, Recording Secretary

Minutes approved as written.

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Gary Butler, Chairman